

	)	CASE NO. INS-2004 -3
IN THE MATTER OF THE BULK	)	
REINSURANCE OF:	)	
	)	
HEALTH POLICIES OF MONTANA	)	
BENEFITS AND HEALTH	)	
CONNECTIONS, INC., a domestic	)	FINDINGS OF FACT,
stock insurance company	)	CONCLUSIONS OF LAW, AND ORDER
	)	
BY	)	
	)	
NEW WEST HEALTH SERVICES, INC	)	
a Montana domestic health service corp.	)	
	)	

Hearing notice had been served on each of the parties and on the Montana Life and Health Insurance Guaranty Association. Public notice of the hearing had been provided through publication in the following seven newspapers on January 25, 28, and February 1, 2004:

Kalispell Daily InterLake; Great Falls Tribune; Bozeman Daily Chronicle; Missoulian; Billings Gazette; Butte Standard; and the Helena Independent Record.

Present at the hearing from New West and Health Connections were Patrick Aberle, Chief Executive Officer; James Senterfitt, Chief Operating Officer; Denise Pizzini, General Counsel; Holly Bander, staff attorney; Angela Huschka, Chief Financial Officer; and Betsy Griffing, private counsel. Present at the hearing from the Department were Christina Goe, agency counsel; James Borchardt, Chief Examiner; and Pamela Weitz, Paralegal. The Montana Life and Health Insurance Guaranty Association (Guaranty Association) was represented at the hearing by its local counsel, Mona Jamison.

The hearing process was explained to the parties. The hearing consisted of two parts: the first part was a contested case hearing in which the parties presented argument, evidence and witnesses in favor of bulk reinsurance, and the second part was the public hearing portion at which there was no comment from the public. There was no testimony or comments received by the Department opposing the bulk reinsurance.

Angela Huschka was sworn in and provided testimony on behalf of New West and Health Connections, and was cross-examined by counsel for the Department and the Guaranty Association.

The following exhibits were introduced into the record as Exhibits one through nine: the biographical affidavits of eleven board members of New West (Exhibit 1); resolutions of the board of directors of New West Health Services (Exhibit 2); Resolution of the Sole Shareholder of Montana Benefits and Health Connections, Inc. (Exhibit 3); New West Health Services Statutory Financial Statements December 31, 2002 and 2001 (Exhibit 4); Resolutions of the

Board of Directors of Montana Benefits and Health Connections, Inc. (Exhibit 5); Montana Benefits and Health Connections Financial Statements for three months ended December 31, 2002 (Exhibit 6); Transfer and Assumption Agreement, which included the following attachments: a list of furniture, fixtures, tangible personal property, computer software and licenses, assumed contracts, accounts transferred using 9/30/03 financial statement, assumed policies, certificate of assumption of insurance policy (Exhibit 7); general business plan for assumption (Exhibit 8); and written comments from the Montana Life and Health Insurance Guaranty Association (Exhibit 9). At the request of agency counsel, the hearings officer left the record open for the addition of an addition exhibit, which would be the Annual Financial Statements for New West Health Services and Montana Benefits and Health Connections for 2003. Those documents were added on March 12, 2004 as Exhibits 10 and 11.

From the documentary evidence submitted and the testimony at the hearing, the Commissioner makes the following:

### **FINDINGS OF FACT**

1. New West Health Services is a Montana domestic health service corporation. It was founded by four sponsoring hospitals: Billings Deaconess Hospital, St. Peter's Hospital in Helena, Community Hospital in Missoula, and Northern Montana Hospital in Havre. Those hospitals provided the initial capitalization for New West, have contributed significant sums of money in the past in the form of subordinated debt, and continue to express a willingness to support New West.

2. Health Connections was formed in 2002 as part of a Rehabilitation Plan for the life and health business of Montana Benefits and Life Connections (MBLC), which was approved by

the District Court of the First Judicial District, Lewis and Clark County, Montana. Health Connections is the wholly owned subsidiary of New West.

3. Under the Rehabilitation Plan, and in order to acquire the health business from MBLC, New West had to acquire MBLC's life business. New West, as a health service corporation, could not service the life business and therefore it created Health Connections as the recipient of all of the policies from MBLC. The life business was subsequently bulk reinsured with Unified Life Insurance Co. in Case No. 2003-06, Office of the Montana State Auditor.

4. New West and Health Connections have entered into a Transfer and Assumption Agreement (Agreement), by which all of the assets and liabilities of Health Connections and all of the Health Connection policies will be transferred and assumed by New West, except for the amount of assets minimally necessary for Health Connections to retain its certificate of authority. All of Health Connection's insurance policies will be bulk reinsured by New West. The boards of directors of New West and Health Connections have approved the Agreement. See Exs. 2 and

5. New West, as the sole shareholder of Health Connections, has also approved the Agreement.

5. The motivating factors for the Transfer Agreement are twofold:

(1) under the current structure, New West and Health Connections must maintain two separate administrative services for the two different companies, which is costly and inefficient; and

(2) the premium tax imposes a significant financial burden on Health Connections, which will be eliminated when the policies are transferred to New West, because New West, as a health service corporation, does not pay premium tax.

6. The Agreement, which was introduced and accepted into evidence as Exhibit 7,

details the transfer of assets and assumption of policies. Except for the \$750,000 required to maintain a certificate authority in Health Connections, all assets, including furniture, fixtures, equipment, computer systems, licensing agreements, third party contracts, and all cash, bonds and other invested assets as listed in Exhibits 2(a), 2(c), 2(d) and 2(e), attached to the Transfer Agreement, are to be transferred to New West. New West will also assume (bulk reinsure) all liabilities associated with the contracts and assets to be transferred.

7. Under the Agreement, New West will assume all of the policies listed in Exhibit 4(a) of the Agreement, and will also receive all of the liabilities, premium and reserves for the policies, as detailed in the Agreement.

8. A general description of the business plan for the "shell" of Health Connections and for the assumed policies was also admitted into evidence. See Ex. 8. Amended Articles of Incorporation will be filed with respect to Health Connections, amending the name of the shell company to "Montana Benefits." New West does not have firm plans for Montana Benefits, but hopes to develop new products that may be marketed through Montana Benefits.

9. New West intends to combine the assumed policies with its indemnity line of products and form one indemnity line of products known as "Health Connections." New West will continue to service its current HMO product line as well. New West has no plan to retrocede the new policies and no intention to change benefits significantly. New West hopes that the transfer of assets and assumption of policies will result in a cost savings to New West that will allow for containment of premium rates. (See testimony of Angela Huschka, Hearing Transcript page 14.)

10. New West currently employs the staff at the Kalispell office and plans to continue

to maintain that office.

11. The transfer and assumption of the policies is not inequitable to the shareholder of New West. In fact, the transfer will benefit the sole shareholder by allowing administrative efficiencies and reduction of costs.

12. The Health Connections policies currently are covered by operation of the Montana Life and Health Insurance Guaranty Association Act (sections 33-10-201 through 236, MCA), which would allow for payment of policyholder claims up to a certain amount, if Health Connections were declared insolvent and placed under an order of liquidation by a district court. Section 33-10-202(7), MCA. The policies would not be covered by the protections of this Act once transferred to New West, because New West is a health service corporation and, by law, not a member of the Guaranty Association.

13. The policyholders are best served by allowing the transfer of assets and assumption of policies. New West will be able to implement administrative changes that hopefully will result in cost saving measures that contain rate increases and provide better service to the policyholders.

14. The transfer will not substantially reduce the protection or service to policyholders. New West appears to have the financial and administrative capability, especially when the assurances of financial backing from the founding hospitals are taken into account, to protect policyholders and service the policies in a timely and efficient manner. (See testimony of Angela Huschka, Hearing Transcript pages 5, 15 and 22.)

15. Transfer of the policies will also help foster competition in the marketplace, by allowing New West to implement administrative efficiencies and not pay the premium tax. Such



competition, in the long run, operates in the best interest of the policyholders in Montana.

16. New West has experience in administering health insurance policies. In fact the same staff has been administering both the New West policies and the Health Connections policies since October 2002. New West has represented that it has no plans to bulk retrocede any portion of the Health Connections health insurance policies at any time in the foreseeable future.

17. The Transfer and Assumption Agreement provided for a March 1, 2004 effective date, "unless disapproved or otherwise provided by the Montana Commissioner of Insurance." Because it was necessary to review the annual Financial Statements for 2003 and because those statements were not received by the Commissioner until March 12, 2004, the agreement must be modified to provide an effective date of April 1, 2004.

### **CONCLUSIONS OF LAW**

1. Health Connections is a domestic stock insurer within the meaning of Section 33-3-102(2), MCA. New West is a domestic health service corporation within the meaning of Section 33-30-101(1), MCA.

2. Health Connections is the wholly owned subsidiary of New West.

3. Under Section 33-2-1211(1), MCA, Health Connections is permitted to bulk reinsure all or any portion of its insurance. After a hearing on the bulk reinsurance agreement, the Commissioner shall approve the agreement within a reasonable time after the filing unless he finds that it is inequitable to the stockholders of the domestic insurer or would substantially reduce the protection or service to its policyholders.

4. Under Section 33-2-1113, MCA, transactions may take place among affiliates with the approval of the Commissioner.

5. Under Section 33-2-1114, MCA, an extraordinary distribution may be made to a shareholder upon the approval of the Commissioner. Because the distribution is made as part of the assumption of the policies, the distribution is appropriate to aid in the service of the policies.

6. The bulk reinsurance of Health Connections health policies by New West would not substantially reduce the protection or service to the policyholders and is not inequitable to the sole shareholder of Health Connections, New West. New West has well-established adequate administrative personnel and systems, as well as the financial capability and backing of its founding hospitals, to service the policies.

### ORDER

Having fully considered the evidence presented at the hearing, the transfer of assets and liabilities and bulk reinsurance of policies as detailed in the Transfer Agreement are hereby approved. The Agreement shall have an effective date of April 1, 2004.

DATED this 30<sup>th</sup> day of March, 2004.

  
Alicia Pichette  
Deputy Commissioner of Insurance



### CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and accurate copy of the foregoing *FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in the matter of THE BULK REINSURANCE OF HEALTH POLICIES OF MONTANA BENEFITS AND HEALTH CONNECTIONS, INC., a domestic stock insurance company, BY NEW WEST HEALTH SERVICES, INC., a Montana domestic health service corporation*, to the following persons by depositing the same in the United States Mail, 1st Class Parcel Post, this 30 day of MARCH, 2004:

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